



Paper No. 10

ROBERT BUCKLEY
PATENT ATTORNEY
PO BOX 2520
MENLO PARK CA 94026-2520

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OFFICE OF PETITIONS

In Application of	:	
Sharif, et al.	:	
Application No. 09/902,986	:	DECISION REFUSING STATUS
Filed: July 11, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. UNIQA-PPA2	:	
Title: WEB BROWSER IMPLEMENTED IN	:	
AN INTERNET APPLIANCE	:	

This is in response to the "Response to Decision Refusing Status, and Petition for 3-Month Extension of Time to Respond", filed July 22, 2002, which is being treated as a renewed petition under 37 CFR 1.47(a).

The renewed petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 11, 2001. On August 24, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

On January 24, 2002, petitioner filed the a petition under 37 CFR 1.47 and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration by April Yin, detailing the facts concerning co-inventors Bremsteller's, Knapp's, and Ivey's refusal to sign the declaration.

However, this petition was dismissed in a decision mailed on April 17, 2002, because with respect to Ivy, no copy of Ivy's written refusal (mentioned in the petition) was supplied as required by MPEP 409.03(d). Petitioner was successful in meeting the requirements of a grantable petition under 37 CFR 1.47(a) with respect to non-signing inventors Bremsteller and Knapp.

Petitioner demonstrated that copies of the application papers were submitted to these two inventors, and that as of the date of the decision, no executed oath or declaration from them had been received.

On renewed petition, petitioner has supplied a declaration executed by inventor Ivey. Therefore, petitioner argues that the issues raised in the April 17, 2002 dismissal are now moot.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (2) above.

As to requirement (2), the declaration submitted with the petition does not comply with 37 CFR 1.63. Inventor Glen Edward Ivey has not signed a declaration that identifies the other joint inventors. Regarding this, the MPEP states:

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).¹

Here, the page of the declaration with Ivey's signature only identifies Ivey as the inventor. On renewed petition, petitioner must submit an oath or declaration in compliance with 37 CFR 1.63.

Petitioner submitted a fee in the amount of \$460 for a three month extension of time to respond to the dismissal dated April 17, 2002. However, as petitioner included a Certificate of Mailing dated July 15, 2002, only a one month extension of time was needed to respond to the April 17, 2002 dismissal.²

¹ MPEP 201.03(B).

² The April 17, 2002 dismissal set a period for response of two months. Therefore, the last day petitioner could have responded without an extension of time would have been June 17, 2002.

Accordingly, the \$405 difference between the three month extension of time (\$460) obtained and the one month extension of time (\$55) that was required will be refunded to petitioner under separate cover.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy